

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

In re: CaptureRX Data Breach Litigation

Master File No. 5:21-CV-00523-OLG

This Document Relates To:

All Actions

**PLAINTIFFS' UNOPPOSED MOTION FOR AMENDMENT TO THE FINAL
APPROVAL ORDER UNDER FED. R. CIV. P. 60(a)**

Plaintiffs Daisy Trujillo, Mark Vereen, Michelle Rodgers, Echoe Camacho, on behalf of herself and her minor child, T.C., and Angelica Mendoza, individually and behalf of others similarly situated (“Plaintiffs”) hereby move this Court for an order under Federal Rule of Civil Procedure 60(a) which allows the Court to “correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record.”

On June 23, 2022, this Court entered an order granting final approval (the “Final Approval Order”) (Doc. 49) of the settlement between Plaintiffs, on their own behalf and on behalf of the Settlement Class, and Defendants NEC Networks, LLC d/b/a/ CaptureRx and Rite Aid Hdqtrs. Corp. The proposed order on which the Final Approval Order was based listed 231 timely requests for exclusion received by settlement administrator rather than the current number, as of June 15, 2022, of 273 requests. *See* Doc. 47-1; Supplemental Declaration of Frank Ballard of Kroll Settlement Administration LLC in Connection with Final Approval of Settlement ¶ 2; Exh. A (“Kroll Decl.”). Similarly, the proposed order did not list the three objections that were received after its filing but that were addressed in Plaintiffs’ Reply to Plaintiffs’ Unopposed Motion for Final Approval of Class Action Settlement, Award of Attorneys’ Fees, Expenses, and Service Awards (“Reply”) and during the June 23, 2022 hearing. *See* Doc. 47.

Plaintiffs respectfully request that the Court adopt the Proposed Amended Final Approval Order (the “Amended Order”) attached hereto as Exhibit A. Specifically, the Amended Order includes the following amendments:

- 1) paragraph 6 is amended to identify the three objections addressed in Plaintiffs’ Reply;
- 2) paragraph 8 is amended to update the total number of timely requests for exclusion received by Kroll as of June 15, 2022, to 273 rather than 231; and

- 3) Exhibit A to the Final Approval Order is amended to include the updated list of the 273 Opt-Out Members who submitted timely requests for exclusion to Kroll as of June 15, 2022. *See* Kroll Decl. Exh. A.

Date: June 29, 2022

Respectfully submitted,

/s/ Gary M. Klinger

Gary M. Klinger (*Pro Hac Vice*)

MILBERG COLEMAN BRYSON

PHILLIPS GROSSMAN, PLLC

227 W. Monroe Street, Suite 2100

Chicago, IL 60606

Phone: 866.252.0878

gklinger@milberg.com

M. Anderson Berry (*Pro Hac Vice*)

CLAYEO C. ARNOLD,

A PROFESSIONAL LAW CORP.

865 Howe Avenue

Sacramento, CA 95825

Telephone: (916) 239-4778

Facsimile: (916) 924-1829

aberry@justice4you.com

Interim Co-Lead Counsel

Joe Kendall

KENDALL LAW GROUP, PLLC

3811 Turtle Creek Blvd., Suite 1450

Dallas, TX 75219

Telephone: 214-744-3000

Facsimile: 214-744-3015

jkendall@kendalllawgroup.com

Local Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of June, 2022, I caused a true and correct copy of the foregoing document to be filed with the Clerk of the Court for the Western District of Texas via the Court's CM/ECF system, which will send notification of such filing to the counsel of record in the above-captioned matters.

Date: June 29, 2022

/s/ Gary M. Klinger